

**REAL ESTATE RICHES, INC.,
and JEFFREY L. RUBIN,**

Plaintiffs,

V.

BRIAN FENTIMAN, *et al.*

Defendants

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No. 1:09-cv-0453

JUDGE SYLVIA H. RAMBO

MEMORANDUM

Before the court is Plaintiffs’ motion for leave to amend the complaint. (Doc. 33.) The amended complaint removes one Defendant, adds additional Defendants, adds three additional counts, and expands on allegations in other counts of the original complaint. Defendants oppose the motion, arguing that the 128 page complaint violates the notice pleading requirements of Fed. R. Civ. P. 8 because it is “prolix, excruciatingly repetitive, and argumentative.” (Doc. 42 at 2.)

The court agrees with Defendants that the amended complaint is prolix and argumentative; however, in this respect it is no different than the original complaint filed in this case, to which Defendants did not object. Plaintiffs defend the excessive length and detail contained in the amended complaint, arguing that such detail is required to satisfy the pleading standard under *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007), and *Ashcroft v. Iqbal*, 129 S. Ct. 1937 (2009). Plaintiffs further argue that such length and detail is necessary because of the large number of claims against Defendants. Although the court believes that the complaint could have been more efficiently and effectively drafted, it is not so deficient that it fails to satisfy the requirements of Fed. R. Civ. P. 8(a).

Although the court will permit the amended complaint, it will also take this opportunity to remind Plaintiff's counsel of his obligations under Fed. R. Civ. P. 11(b):

Representations to Court. By presenting to the court (whether by signing, filing, submitting, or later advocating) a pleading, written motion, or other paper, an attorney or unrepresented party is certifying that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances—

- (1) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;

Ordinarily, the court would direct the Clerk of Court to docket the amended complaint which was submitted as an exhibit to the motion for leave to file an amended complaint. However, the amended complaint submitted by Plaintiffs contains a formatting error. A blank space appears at the top of most pages, and the document runs to 196 pages, rather than 123 pages. Plaintiffs will be required to submit a new copy of the amended complaint without these formatting errors.

The amended complaint also moots the motion to dismiss filed by Defendants' Fentiman, Schlesinger, and Sandberg. However, the court expresses no opinion as to whether the amended complaint cures any alleged deficiencies in Plaintiffs' claims identified by Defendants in the motion to dismiss. Defendants are free to renew their arguments in a motion to dismiss the amended complaint.

An appropriate order will issue.

s/Sylvia H. Rambo
United States District Judge

Dated: June 30, 2009.

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ORDER

In accordance with the foregoing memorandum of law, **IT IS HEREBY ORDERED THAT:**

(1) Plaintiff's motion for leave to file an amended complaint is

GRANTED;

(2) No later than July 6, 2009, Plaintiffs shall submit an error-free copy of the amended complaint;

(3) The motion to dismiss filed by Defendants Fentiman, Schlesinger, and Sandberg is **DENIED AS MOOT**.

s/Sylvia H. Rambo
United States District Judge

Dated: June 30, 2009.